



# National NAGPRA Update

Spring 2004



## National NAGPRA Update

*National NAGPRA Update* is a twice-yearly overview of current NAGPRA issues. The *Update* has information on recent regulatory developments, meetings, training, grants, and other NAGPRA related resources. We hope you find the *Update* to be timely, relevant, and useful in furthering your awareness of recent developments in the NAGPRA community.

## Ninth Circuit Court Issues Ruling in Kennewick Man Case

On February 4, 2004, a three-judge panel of the U.S. Court of Appeals for the Ninth Circuit issued its decision in the Kennewick Man case. The court affirmed the District Court's ruling that the Kennewick Man remains were not "Native American" within the meaning of NAGPRA. The complete text of the opinion can be found online at <http://www.ce9.uscourts.gov/> (click on "9th Circuit Court of Appeals Website," then search by date).

The Department of the Interior did not seek a hearing by a full panel of the Ninth Circuit Court of Appeals. The Department has not announced a decision regarding whether it will appeal to the U. S. Supreme Court.

Indian tribes involved in the case sought a hearing

with the full panel of the Ninth Circuit Court of Appeals, but were turned down by the court. The court's decision, dated April 19, 2004, is also available on the Ninth Circuit Court's Website. The tribes may appeal to the U.S. Supreme Court.

The February 4, 2004 ruling is in effect in all States that are within the Ninth Circuit – Alaska, Arizona, Hawaii, California, Idaho, Montana, Nevada, Oregon, and Washington.

The Department of the Interior will issue guidance regarding the decision's effect on NAGPRA regulations. When the guidance becomes available, it will be posted to the National NAGPRA Website: [www.cr.nps.gov/nagpra](http://www.cr.nps.gov/nagpra).

## Grants

Proposals for FY2004 NAGPRA documentation grant awards were due on March 1, 2004. However, National NAGPRA continues to accept FY2004 NAGPRA repatriation grant proposals, which are reviewed upon receipt.

Grant guidelines and application forms are available

on National NAGPRA's Website: [www.cr.nps.gov/nagpra/grants](http://www.cr.nps.gov/nagpra/grants).

For more information, contact National NAGPRA program officer Dr. Paula Molloy by phone (202) 354-2207, or e-mail, [paula\\_molloy@nps.gov](mailto:paula_molloy@nps.gov).

## Review Committee

The May 2004 meeting of the Native American Graves Protection and Repatriation Review Committee has been cancelled. Planning for subsequent Review Committee meetings is on hold until the Secretary of the Interior makes appointments to the three current vacancies on the Review Committee. Nominations are currently under consideration for one position to be held by a

traditional Native American religious leader, and two positions representing the museum and scientific communities.

When information on Review Committee appointments and meetings is available, details will be posted to the National NAGPRA Website: [www.cr.nps.gov/nagpra/index.htm](http://www.cr.nps.gov/nagpra/index.htm).

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## Training

National NAGPRA recently posted an updated training schedule to its Website: [www.cr.nps.gov/nagpra/training.htm](http://www.cr.nps.gov/nagpra/training.htm). The *Washington, DC NAGPRA Seminar* will be held on May 17, 2004. The *Seminar* provides a comprehensive NAGPRA overview, as well as an opportunity to explore selected NAGPRA topics in more depth.

In addition to the *Seminar*, National NAGPRA will also offer *Implementing NAGPRA Section 3: Excavations and Inadvertent Discoveries on Federal and Tribal Lands*, on May 18, 2004. Designed to meet the needs of cultural resource professionals working on Federal and tribal lands, this workshop

focuses on developing a more thorough understanding of the excavation and inadvertent discovery provisions of NAGPRA, including the notification process, consultation requirements, and priority of claims.

National NAGPRA trainings, including the NAGPRA Seminar and the Section 3 workshop, are offered free of charge. Space is limited, and pre-registration is required. For details, see the program's Website, or contact National NAGPRA program officer Dr. Paula Molloy by telephone at (202) 354-2207, or e-mail, [paula\\_molloy@nps.gov](mailto:paula_molloy@nps.gov).

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## Regulatory News

National NAGPRA has embarked on a series of regional consultations regarding 43 CFR 10.7, "Disposition of unclaimed Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony." This regulation applies to cultural items found on Federal or tribal land after November 16, 1990.

National NAGPRA has met with tribal and Federal agency representatives in the Northwest, and meetings in the Northeast and Southeast will be held in June 2004. Details on these and other regional meetings will be posted on the National NAGPRA Website as they become available. See [www.cr.nps.gov/nagpra/index.htm](http://www.cr.nps.gov/nagpra/index.htm), or contact National NAGPRA program officer Dr. Karen

Mudar by telephone at (202) 354-2203, or e-mail, [karen\\_mudar@nps.gov](mailto:karen_mudar@nps.gov).

On behalf of the NAGPRA Review Committee, National NAGPRA continues its development of the Culturally Unidentifiable Human Remains Database. The database is being compiled in accordance with 43 CFR 10.10 (g), which requires the Review Committee to produce an inventory of culturally unidentifiable human remains. After data entry is completed and the information is verified, the database will be available online. The database is expected to serve as an important resource for continued discussions and consultation about the disposition of culturally unidentifiable human remains.

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## Meetings and Outreach

National NAGPRA program officers participated in the following recent conferences and meetings: Native Sacred Places – Finding Common Ground (November 14-15, 2003, Albuquerque, NM), United South and Eastern Tribes semi-annual meeting (February 2, 2004, Washington, DC), meeting with representatives of the Kitigan Zibi Nation (February 9, 2004, Washington, DC), the Affiliated Tribes of Northwest Indians Winter

Conference (February 11, 2004, Portland, OR), consultations with Northwest tribal and Federal agency representatives on the development of 43 CFR 10.7 (February 12-13, 2004, Portland, OR), and 43 CFR 10.7 consultations with the American Association of Museums (March 2, 2004, Washington, DC) and the American Association for the Advancement of Science (March 8, 2004, Washington, DC).

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## International Repatriation

The "International Repatriation" page of the National NAGPRA Website has recently been updated: [www.cr.nps.gov/nagpra/special/international.htm](http://www.cr.nps.gov/nagpra/special/international.htm).

The page features answers to commonly asked questions about international repatriation, links to topical Websites, and a list of relevant publications.

National NAGPRA program officer Dr. Mary Downs serves as the program's point of contact for information on this topic. For inquiries regarding international repatriation issues, contact Dr. Downs by telephone at (202) 354-2204, or e-mail, [mary\\_downs@nps.gov](mailto:mary_downs@nps.gov).